HOUSE FILE 802
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 258)

(As Amended and Passed by the House March 16, 2021)
ALL New Language by the House

A BILL FOR

An Act providing for requirements related to racism or sexism trainings at, and diversity and inclusion efforts by, governmental agencies and entities, school districts, and public postsecondary educational institutions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. **25A.1 Race and sex stereotyping — training prohibited by state and local governments.**

1. For purposes of this section, unless the context otherwise requires:

a. "Agency" or *"state agency"* means the same as defined in section 8A.101.

b. "Divisive concepts" means the same as defined in section 261H.7, subsection 1.

c. "Governmental entity" means any unit of government in the executive, legislative, or judicial branch of government; an agency or political subdivision; any unit of another state government, including its political subdivisions; or any association or other organization whose membership consists primarily of one or more of any of the foregoing.

d. "Governmental subdivision" means a county or city or combination thereof.

e. "Race or sex scapegoating" means the same as defined in section 261H.7, subsection 1.

f. "Race or sex stereotyping" means the same as defined in section 261H.7, subsection 1.

2. Each agency, governmental entity, or governmental subdivision may continue training that fosters a workplace and learning environment that is respectful of all employees. However, the head of an agency, governmental entity, or governmental subdivision shall ensure that any mandatory staff training provided by an employee of an agency, governmental entity, or governmental subdivision, or by a contractor hired by the agency, governmental entity, or governmental subdivision does not teach, advocate, act upon, or promote divisive concepts. This section shall not be construed as preventing an employee or contractor who provides mandatory training from responding to questions regarding divisive concepts raised by participants in the training.

3. Each agency, governmental entity, or governmental subdivision shall prohibit its employees from discriminating

against other employees by color, race, ethnicity, sex, gender, or any other characteristic protected under the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and applicable state law.

4. This section shall not be construed to do any of the following:

a. Prevent an agency, governmental entity, or governmental subdivision from promoting racial, cultural, ethnic, or intellectual diversity or inclusiveness, provided such efforts are consistent with the provisions of this section.

b. Create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state of Iowa, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

c. Prohibit a state or federal court or agency of competent jurisdiction from ordering a training or remedial action containing discussions of divisive concepts as a remedial action due to a finding of discrimination, including discrimination based on race or sex.

Sec. 2. NEW SECTION. **261H.7 Race and sex stereotyping — training by institution prohibited.**

1. For purposes of this section, unless the context otherwise requires:

a. *"Divisive concepts"* includes all of the following:

(1) That one race or sex is inherently superior to another race or sex.

(2) That the United States of America and the state of Iowa are fundamentally or systemically racist or sexist.

(3) That an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously.

(4) That an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race or sex.

(5) That members of one race or sex cannot and should not

attempt to treat others without respect to race or sex.

(6) That an individual's moral character is necessarily determined by the individual's race or sex.

(7) That an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.

(8) That any individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of that individual's race or sex.

(9) That meritocracy or traits such as a hard work ethic are racist or sexist, or were created by a particular race to oppress another race.

(10) Any other form of race or sex scapegoating or any other form of race or sex stereotyping.

b. "Race or sex scapegoating" means assigning fault, blame, or bias to a race or sex, or to members of a race or sex because of their race or sex, or claiming that, consciously or unconsciously, and by virtue of persons' race or sex, members of any race are inherently racist or are inherently inclined to oppress others, or that members of a sex are inherently sexist or inclined to oppress others.

c. "Race or sex stereotyping" means ascribing character traits, values, moral and ethical codes, privileges, status, or beliefs to a race or sex, or to an individual because of the individual's race or sex.

2. Each public institution of higher education may continue training that fosters a workplace and learning environment that is respectful of all employees and students. However, the president, vice presidents, deans, department directors, or any other administrator of a public institution of higher education shall ensure that any mandatory staff or student training provided by an employee of the institution or by a contractor hired by the institution does not teach, advocate, act upon, or promote divisive concepts. This subsection shall not be construed as preventing an employee or contractor who provides

mandatory training from responding to questions regarding divisive concepts raised by participants in the training.

3. Institution diversity and inclusion efforts shall discourage students of a public institution of higher education from discriminating against another by color, race, ethnicity, sex, gender, political ideology, or any other characteristic protected under the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and applicable state law. Each public institution of higher education shall prohibit its employees from discriminating against students or employees by color, race, ethnicity, sex, gender, political ideology, or any other characteristic protected under the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and applicable state law.

4. This section shall not be construed to do any of the following:

a. Inhibit or violate the first amendment rights of students or faculty, or undermine a public institution of higher education's duty to protect to the fullest degree intellectual freedom and free expression. The intellectual vitality of students and faculty shall not be infringed under this section.

b. Prevent a public institution of higher education from promoting racial, cultural, ethnic, intellectual, or academic diversity or inclusiveness, provided such efforts are consistent with the provisions of this section, chapter 216, and other applicable law.

c. Prohibit discussing divisive concepts as part of a larger course of academic instruction.

d. Create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state of Iowa, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

e. Prohibit a state or federal court or agency of competent jurisdiction from ordering a training or remedial action containing discussions of divisive concepts as a remedial action due to a finding of discrimination, including

discrimination based on race or sex.

Sec. 3. NEW SECTION. **279.74 Race and sex stereotyping — training and curriculum prohibited.**

1. For purposes of this section, unless the context otherwise requires:

a. "Divisive concepts" means the same as defined in section 261H.7.

b. "Race or sex scapegoating" means the same as defined in section 261H.7.

c. "Race or sex stereotyping" means the same as defined in section 261H.7.

2. Each school district may continue training that fosters a workplace and learning environment that is respectful of all employees and students. However, the superintendent of each school district shall ensure that any curriculum or mandatory staff or student training provided by an employee of the school district or by a contractor hired by the school district does not teach, advocate, act upon, or promote divisive concepts. This subsection shall not be construed as preventing an employee or contractor who teaches any curriculum or who provides mandatory training from responding to questions regarding divisive concepts raised by participants in the training.

3. School district diversity and inclusion efforts shall discourage students of the school district from discriminating against another by color, race, ethnicity, sex, gender, political ideology, or any other characteristic protected under the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and applicable state law. Each school district shall prohibit its employees from discriminating against students or employees by color, race, ethnicity, sex, gender, political ideology, or any other characteristic protected under the federal Civil Rights Act of 1964, Pub. L. No. 88-352, as amended, and applicable state law.

4. This section shall not be construed to do any of the

following:

a. Inhibit or violate the first amendment rights of students or faculty, or undermine a school district's duty to protect to the fullest degree intellectual freedom and free expression. The intellectual vitality of students and faculty shall not be infringed under this section.

b. Prevent a school district from promoting racial, cultural, ethnic, intellectual, or academic diversity or inclusiveness, provided such efforts are consistent with the provisions of this section, chapter 216, and other applicable law.

c. Prohibit discussing divisive concepts as part of a larger course of academic instruction.

d. Create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state of Iowa, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

e. Prohibit a state or federal court or agency of competent jurisdiction from ordering a training or remedial action containing discussions of divisive concepts as a remedial action due to a finding of discrimination, including discrimination based on race or sex.

Sec. 4. Section 280.22, subsections 4 and 5, Code 2021, are amended to read as follows:

4. Each board of directors of a public school shall adopt rules in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its jurisdiction. <u>The code shall incorporate all of the provisions of this section.</u> The board shall make the code available to the students and their parents.

5. Student editors of official school publications shall assign and edit the news, editorial, and feature content of their publications subject to the limitations of this section. Journalism advisers of students producing official school

publications shall supervise the production of the student staff~~,~~ in order to maintain professional standards of English and journalism~~,~~ and to comply with this section.

Sec. 5. Section 280.22, Code 2021, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. A public school employee or official, acting within the scope of the person's professional ethics, if any, shall not be dismissed, suspended, disciplined, reassigned, transferred, subject to termination or nonrenewal of a teaching contract issued under section 279.13 or an extracurricular contract issued under section 279.19A, or otherwise retaliated against for acting to protect a student for engaging in conduct authorized under this section, or refusing to infringe upon student conduct that is protected by this section, the first amendment to the Constitution of the United States, or Article I, section 7, of the Constitution of the State of Iowa.

Sec. 6. IMPLEMENTATION OF ACT. Section 25B.2, subsection 3, shall not apply to this Act.